IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 203 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AVADH BIHARI AMRUTLAL

Versus

STATE OF GUJARAT

Appearance:

MR VP THAKKER for Petitioner

MR ST MEHTA ASSTT. PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 11/08/2000

CAV JUDGEMENT

This is a Criminal Revision Application filed under Section 401 read with Sec. 397 of the Criminal Procedure Code, 1973 (in short " Cr.P.C") filed by original accused of Criminal Case No. 1735 of 1983 which

was pending on the file of the learned Judicial Magistrate, First Class, Court No.4, Jamnagar (who will be referred to hereinafter as the learned Magistrate).

He has, by filing this Criminal Revision Application challenged the correctness, legality and propriety of the judgment Ex.11 dated 24th February, 1989 rendered by the learned Additional Sessions Judge, Jamnagar (who will be referred to hereinafter as the learned Appellate Judge") in Criminal Appeal No. 57 of 1983. By that judgment dt. 24th February, 1989 in Criminal Appeal No. 57 of 1983, the learned Appellate Judge was pleased to dismiss the appeal preferred by the accused i.e.the present Criminal Revision Petitioner and he was pleased to confirm the order of conviction and sentence passed by the learned Magistrate by rendering his judgment in Column No.7 of Summary Form Ex.2 in Criminal Case No. 1735 of 1983 on 12th December, 1983. By that Judgment dt. 12th December, 1983 of the learned Magistrate, accused i.e. Criminal Revision Petitioner was convicted under Sec. 255(2) of Cr.P.Code for offence punishable under Section 66(1)(b) of the Bombay Prohibition Act, 1949 (for short "the Act") and was sentenced to undergo simple imprisonment for four months and to pay a fine of Rs 250/- and I/D of fine, further to undergo simple imprisonment for two months. By that judgment, accused was acquitted for an offence punishable under Sec. 85(1)(3) of the Act.

2. The facts leading to this present Criminal Revision Application in a nutshell are as follows:-

On or about 5th December, 1982, the complainant Police Constable Shri Ranjitsinh Dipsinh, Buckle No. 1027 of Jamnagar "A" Division, City Police Station, was on duty at S.T.Depot of Jamnagar. One another Police Constable Mahesh Hiralal, Buckle No. 927 was also on duty with complainant. As per the case of the prosecution, at about 10-00 a.m., one person was found in a drunken condition and he was not in a position to take care of himself. His speech was incoherent. Therefore that person was called by complainant ,who in turn asked that person to state his name. That person gave his name as "Avadh Bhihari Amrutlal Brahman of Bagasara " who is present Criminal Revision Petitioner. The complainant called two panch witnesses and a panchnama of physical condition of accused was drawn. After drawing a panchnama of physical condition of accused in between 10-05 a.m. and 10-45 a.m., accused was arrested at 10-45 a.m. Immediately, thereafter he was brought to Jamnagar "A" Division Police Station and complainant lodged his

complaint against accused at about 11-15 a.m. That complaint came to be registered as Jamnagar City Police Station CR.No. Prohibition 848/82. The Investigating Officer conducted the investigation on the basis of that complaint lodged by the complainant and ultimately, the Investigating Officer filed a chargesheet in the court of the learned Magistrate on 26th April, 1983. That chargesheet came to be registered as Criminal Case No. 1735 of 1983.

3. The learned Magistrate followed the procedure in a summary way under Chapter XXII of the Criminal Procedure Code, 1808 which is equivalent to Chapter 21 of Cr.P.C. Plea of the accused was recorded on 30th June, 1983. Accused pleaded not guilty to the charge. Therefore, prosecution examined four witnesses. Thereafter further statement of the accused under Sec.313 of the Cr. P.C. was recorded on 25th November, 1983. Accused denied the entire case of the prosecution. Thereafter, after hearing the arguments of the learned advocates of both the parties and after appreciating evidence led by the prosecution, the learned Magistrate was pleased to come to a conclusion that case against accused for an offence punishable under Sec. 66(1)(b) of the Act was proved beyond reasonable doubt, and simultaneously, he was pleased to come to a conclusion that case against accused punishable under Sec. 85(1)(3) of the Act, is not proved, and therefore, he, by rendering his judgment dt. 12th December, 1983, convicted accused under Sec.255(2) of Criminal Procedure Code for an offence punishable under Sec.66(1)(b) of the Act. He was further pleased to sentence accused to undergo simple imprisonment for four months and to pay a fine of Rs.250/- and i/d. of fine, to undergo further simple imprisonment for two months. The learned Magistrate was pleased to acquit accused for an offence punishable under Sec. 85(1)(3) of the Act.

Being aggrieved against and dissatisfied with the said order of conviction and sentence, accused preferred Criminal Appeal No. 57 of 1983 to the Sessions Court, Jamnagar. It may be noted that State did not prefer any appeal or revision application against acquittal of accused for an offence punishable under Sec. 85(1)(3) of the Act. The learned Appellate Judge heard the arguments of the learned advocates of both the parties, and after perusal of Record and Proceedings of the case, and after re-appreciating the evidence led by the prosecution in the trial court, he was pleased to come to a conclusion that the judgment of conviction and sentence is correct and according to law, and therefore, he was pleased to dismiss the appeal filed by accused and by dismissing

that appeal, he was pleased to confirm the judgment i.e. order of conviction and sentence passed by the learned Magistrate who rendered his judgment in Column No.7 of Ex.2, on 12-12-1983.

4. Being aggrieved against and dissatisfied with the judgment Ex.11 dt. 24th February, 1989 rendered by the learned Appellate Judge who confirmed the order of conviction and sentence, the original accused has preferred this Criminal Revision Application.

4.1 At the outset, it would be profitable to place on record certain principles in the form of guidelines for the High Court while dealing with such type of revision application. In case of KHETRA BASI SARNAL AND ANOTHER ETC. Vs. THE STATE OF ORISSA ETC. reported in AIR 1970, SC 272, it has been held that the revisional jurisdiction conferred on the High Court under Section 439 of Code of Criminal Procedure is not to be lightly exercised. In case of BANSI LAL AND OTHERS VS. LAXMAN SINGH, reported in AIR 1986 SC 1721, it has been held that the revisional jurisdiction of the High Court while dealing with an order of acquittal passed by the trial court is more narrow in its scope. It is only in glaring cases of injustice resulting from some violation of fundamental principles in law by the trial court that the High Court is empowered to set aside the order of the acquittal and direct a retrial of the acquitted accused. In K. K.CHHINASWAMY REDDY V. STATE OF ANDHRA PRADESH AND ANOTHER, AIR 1962 SUPREME COURT 1788, it has been held by the Hon'ble Supreme Court that the revisional jurisdiction should be exercised by the High Court only in exceptional cases when there is some glaring defect in the procedure or there is manifest error on a point of law and consequently, there has been a flagrant miscarriage of justice. It has also been held that the power of the High Court to set aside the finding of acquittal in revision is only in an exceptional cases that this power should be exercised.

5. Shri Joshi, the learned advocate for the revision petitioner has cited one authority in case of MEGHAJI GODADJI THAKORE and MEBUJI KESHUJI DARBAR VS. THE STATE OF GUJARAT, reported in 1992 Cr.L.R. (Guj) 519, in which it has been held by this Court in Para 9 as follows :-

> "It is a settled proposition of law that the jurisdictional sweep of this Court in a revision like one on hand is very much circumscribed. Ordinarily, revisional court will be at loath to

interfere with the concurrent findings of fact unless and until the misreading of evidence or perversity or manifest error of law or miscarriage of justice is successfully pointed out....."

6. Keeping in mind the aforesaid legal position with regard to powers which can be exercised by this court under Sec.401 of Cr.P.C., now I will discuss the rival contentions of both the parties.

(i) Shri Joshi, the learned advocate for the revision petitioner has argued that as per the report of Chemical Analyzer Ex.11, and as per case of the prosecution, ethyl alcohol in quantity of 0.0644 % weight by volume was found in the blood sample of accused, and both the courts below have, by taking into consideration Sec. 66(2) of the Act raised the presumption that accused had consumed liquor and the accused has not rebutted that presumption, and therefore, the accused has been convicted by the trial court and ultimately the conviction has been confirmed by the learned Appellate Judge.

(ii) Shri Joshi has further argued that the report of Chemical Analyzer Ex.11 can only be taken into consideration, if that report is issued under Sec.129B of the Act. He has further argued that if any document purporting to be a certificate under the hand of Chemical Examiner or Assistant Chemical Examiner to Government under Sec.129A of the Act is issued, then it can be used as evidence of facts stated in such certificate. In view of Sec. 129A of the Act, the Medical Officer, who collected blood sample of accused for the purpose of analysis, must have followed the procedure prescribed under Sec.129A (2) of the Act "in the manner prescribed". In exercise of the powers conferred under Sec. 143(2)(w) of the Act, the Government has made the Bombay Prohibition (Medical Examination and Blood Test) Rules, 1959 (for short "the Rules") and as per that Rules, the Medical Officer is expected to follow the provisions of said Rules while collecting blood sample.

(iii) Shri Joshi has argued that the Rules are mandatory in nature and if any provision is not complied with by the Medical Officer, while collecting the blood sample, the report of the Chemical Examiner for such blood sample cannot be admissible in evidence and once it is not admissible in evidence, the presumption under Sec.66(2) of the Act cannot be raised. In short, it is argued that the report of the Chemical Examineer can be looked into only, if the blood sample of the person is

collected by the Medical Officer by complying with the provisions of the aforesaid Rules.

(iv) Shri Joshi has argued that said rules are mandatory in nature. He has cited one Full Bench decision of CHAMANBHAI GANGARAM VANKAR Vs. THE STATE OF GUJARAT, reported in 1984 G.L.H. 438. In this authority, a case of KISAN VS. STATE OF MAHARASHTRA, reported in AIR 1979 SC 1284 is referred to, in Para 11 on Page : 449. In that case, the Hon'ble Supreme Court has held that they were clearly of the opinion that the provisions of Rule 4 were merely directory and not mandatory and if Public Analyst opined that the quantity below 5 C.C. was sufficient for the purpose of analysing the results, then rule must be deemed to have been substantially complied with. The ratio of that decision has been referred to in Para 11 of that cited case of Chamanbhai Gangaram Vankar (supra) and the Full Bench of this court has held that it is obvious that some of the provisions of Rule 4 would be directory, while some of them would be mandatory. It has also been held in Para 11 of the said Judgment that " it may not be understood that a literal compliance with every part of the rule should be considered as a mandatory requirement. For instance, the rule enjoins that "the phial then shall be shaken vigorously". This cannot be said to be a mandatory requirement. It would not be necessary for the prosecution to show that the phial was shaken vigorously. It is also not necessary that the doctor who is examined, shall keep before him the text of the rule and should depose to having complied with every small requirement enjoined by the rule and having performed every part of the act in accordance with the procedure prescribed.

7. Shri Joshi has taken this Court through the evidence of four witnesses examined by the prosecution in the case before the trial court. He has argued that looking to Rule 4 of the Rules, the Medical Officer who collected the blood sample of the accused, ought to have cleaned with 1% aqueous solution of mercurochrome or genitor violet, not containing alcohol or its solution the skin surface of that part of such person's body from which he intends to withdraw the blood, and no alcohol shall be touched at any stage while withdrawing blood from the body of the person. Shri Joshi has then argued that looking to the evidence of Dr. I.M. Joshi, he cleared the surface of skin with pad of hot water. At the same time, he has also deposed that without using spirit, he took 5 c.c. blood sample from the vein of the accused. Shri Joshi has argued that Dr. I.M.Joshi has not deposed that he cleaned with 1% aqueous solution of mercurochrome or genitor violet, the skin surface of that

part of the body of the accused from which he intended to collect the blood and hence the provisions of Rule 4 is violated. When Doctor has deposed clearly that he did not use spirit and instead of using the suggested either solution in Rule 4, he cleaned the surface of skin with pad of hot water, then it cannot be said that the requirement was mandatory and it is not complied with. By using hot water pad for cleaning the surface of skin, no alcohol would go inside the vein. The purpose of using the suggested solution under Rule 4 for cleaning surface of skin is to clean the surface of skin so that the pure blood of sample can be taken from the vein of the accused, and therefore, to my mind, the said requirement is not of mandatory nature and by mere using hot water pad to clean the surface of the skin, it cannot be said that Rule 4 is not complied with. Shri Joshi has further argued that the Doctor should have cleaned the surface of the skin with distilled water. For this, no cross-examination is there in the deposition of Dr. Joshi. Shri Joshi has taken a contention that here in this case, Doctor himself did not add anticoagulant and also did not sterilize syringe, and therefore, there was breach of Rule 4. On this point, he has cited one authority in case of KALIDAS DHULABHAI VAGHELA v/s STATE OF GUJARAT, reported in 1996(2) 37(2) G.L.R. Page 372. This judgment was rendered by a learned Single Judge. While the authority of Chamanbhai Gangaram Vankdar (supra) is of 1984 and that too of a decision of Full Bench of this court, wherein, Full Bench of this court has specifically held as follows :-

It may not be understood that a literal compliance with every part of the rule should be considered as a mandatory requirement.....

.....It is also not necessary that the doctor who is examined shall keep before him the text of the rule and should depose to having complied with every part of the act in accordance with the procedure prescribed.

And therefore, it is not necessary for the Doctor to depose that he himself added anticoagulant and preservative in fial and had sterilized the syringe beefore use, and therefore, the contention of Mr. Joshi is devoid of merits in view of aforesaid Full Bench decision.

(ii) Another contention of Shri Joshi is that the Doctor is required to collect the blood sample in a syringe and transfer it into phial containing

anticoagulant and preservative and then that phial shall be shaken vigorously to dissolve anticoagulant and preservative. The Doctor has deposed in his evidence that blood sample which he collected was transferred in phial which he had prepared with anticoagulant and preservative. If he had prepared that phial with anticoagulant and preservative, then to my mind, there is no violation of Rules 4.

(iii) Shri Joshi argued that the Doctor ought to have made it clear as to from where and when anticoagulant and preservative were brought and at what place that substances were preserved. Looking to Rule 4, no such requirement is necessary. Once he says that he had prepared the phial with anticoagulant and preservative, then Rule 4 is substantially complied with. Only a suggestion was put in the cross-examination that he did not personally add the anticoagulant and preservative in the phial. That suggestion has been denied by the Doctor. In cross-examination, more than one suggestions were put to which the Doctor has denied. In case of KHIMJIBHAI KURJIBHAI vs. THE STATE OF GUJARAT, reported in 1982 Cr.L.R. (Guj), P. 381, it has been held that

> " Suggestion in cross-examination are no evidence. This proposition of law is good both in the case of the prosecution and the defence. Mere hurling of some such suggestions which are denied, can hardly take the place of proof or evidence. The Law of Evidence is alike both for the prosecution and for the defence. If the accused wants to establish a certain fact, he has to lead evidence on that score. Such suspicion cannot have any place in the realm of appreciation of evidence. We reiterate that a suggestion denied by a witness remains only a suggestion and has no evidentiary value at all".

8. In case of [THE] STATE OF GUJARAT V/s. CHANDRAPRAKASH KHUSHALDAS SINDHI , reported in 1999(1) G.L.H. 29, it has been held in Para 18 as under:-

> " In so far as the exercise of power in the discharge of his duty do not bear the ingredients of the offence a presumption in favour of compliance with the law is permissible under section 114 illustration (e) of the Evidence Act, when the broad facts are proved, there would be justification to raise the presumption".

Here in this case, when Doctor has deposed that he himself has prepared a phial with anticoagulant and preservative, then a presumption can be raised that he did so as per Sec.114 illustration (e) of the India Evidence Act.

8.1 Shri Joshi has then argued that there is no evidence that Doctor used sterilized phial by putting phial in the boiling water before it was used for collection of blood sample from the vein of the accused. He has argued that in view of Rule 4 of the Rules, a Registered Medical Officer shall use syringe for the collection of the blood of a person produced before him under Rule 3 and that syringe shall be sterilized by putting it in the boiling water before it is used for the aforesaid purpose. No doubt, he has not deposed that syringe was sterilized by putting it in the boiling water before it was used. He has only deposed that he collected a sample of blood from the vein of left hand after cleaning the surface of the skin with hot water pad. He has not referred anything about syringe in his examination-in-chief. A suggestion was put in the cross-examination that syringe was not cleaned. Doctor has denied that fact, meaning thereby, on reading entire evidence of Doctor, it is crystal clear that the syringe was cleaned, and therefore, the contention taken by Shri Joshi that Doctor has not deposed that syringe was sterilized by putting it in boiling water is of no merits. As discussed earlier, every part of part of Rule 4 is not mandatory. Mr. Joshi has not produced any citation on the point that Doctor should depose specifically in terms that he collected the blood sample with the help of sterilized syringe which he had put previously in the boiling water. This requirement is a directory in nature, and therefore, it cannot be said that Rule 4 is contravened.

9. Shri Joshi has further argued that here in this case, the Doctor has contravened the provision of Rule 4 of the Rules by not affixing his official seal or his monogram on the phial which he had sealed by using sealing wax. Here in this case, the Doctor has deposed that he had affixed the seal of "Medico Legal Gujarat " on the phial which he had sealed and he also put a fascimile of the said seal on the forwarding letter which is in the prescribed Form B. That Form B is at Ex.10. Shri Joshi has put much emphasis on this point on the ground that admittedly Doctor Joshi was serving in Irvin Hospital, Jamnagar but he has used the seal of "Medico

Legal Gujarat " on the phial. It is his argument that Dr. Joshi ought to have put his official seal or his own monogram. In support of his argument, he has cited an authority of MAHIJIBHAI LAKHABHAI vs. STATE OF GUJARAT, reported in 1980(2) G.L.R. Page 159. In this case, it has been held as follows:

" Under Rule 4 of the Bombay Prohibition (Medical Examination & Blood Test) Rules, 1959, there is a specific mandate that the cap of the phial in which the blood is collected shall be sealed by means of sealing wax with the official seal or the monogram of the registered medical practitioner who has collected the blood. As in the instant case, the seal affixed was not of the registered medical practitioner who had collected the blood, but the seal affixed was the seal of the Hospital, it was a serious infirmity showing that the procedure of mandatory nature as prescribed by rule had not been followed."

This authority cited by Shri Joshi is of the year 1980. The case cited was decided on 30th April, 1980. In the authority of Chamanbhai Gangaram Vankar (supra) is an authority of 1984 and that case was decided by Full Bench of this court. In that case also, seal of Government of Gujarat was affixed on the phial as well as its fascimile was affixed on the forwarding letter in prescribed Form B. This Court held that if the authorised medical practitioners who are entitled to collect blood for the purpose of analysis as per Sec.129A would be either medical practitioners in charge of the hospital or dispensary or serving therein. For such hospital, official seal would obviously be there. But for a registered medical practitioner who is not in charge of such hospital or dispensary, there would be no question of utilising official seal of the hospital as his or her official seal. In that case, he can have his own personal seal which would be treated as his official seal or he can utilise his monogram. Thus if a registered medical practitioner who is authorised to collect the blood sample of a person, then he has to put his own seal or monogram. Here in this case, Dr. Joshi was a Doctor serving in Irvin Hospital and the hospital had its own seal of " Medico Legal Gujarat ", and therefore, there is nothing wrong to use that seal of "Medico Legal Gujarat " on the phial as well as its fascimile in Form B. When Dr. Joshi was serving as a Medical Officer in the hospital, he can use official seal of Hospital i.e. "Medico Legal Gujarat " . In view of Full Bench decision of Chamanbhai Gangaram Vankar

(supra), the authority of Mahiji Lakhabhai (supra) will not be applicable to the facts of this present case.

10. Shri Joshi has made an attempt to challenge the report of Chemical Examiner on the ground that Dr. Joshi who forwarded the phial of blood sample of accused along with forwarding letter in Form B did not put fascimile of seal used by him on said Form B, and therefore, Rule 4 is contravened. At his request, Record and Proceedings of the case were called for and by showing the forwarding letter Form B Ex.10, he tried to convince the court that there is no fascimile of seal impression on forwarding letter Ex.10. It may be noted that this forwarding letter Ex.10 was written on or about 7th December, 1982 and in later half of the year 2000, Shri Joshi had shown letter Ex.10 to this court. Naturally after lapse of about 18 years, the seal affixed on which fascimile of seal which was put might have beeen severed during transit or in handling it without care, and therefore, naturally fascimile of the seal cannot be visible on Form B Ex.10 after abut 18 years. At this conjuncture, it is required to look into report of the Chemical Examiner Ex.11. It states that responsible officer of the Forensic Science Laboratory received one tin box wrapped in cloth and on that tin box, there was a seal of Medical Officer. There was also a seal of " Medico Legal Gujarat" on the phial also. That report Ex.11 also speaks that tin box was received along with the forwarding letter dt. 7th December, 1982 and the seal on the phial was exactly similar to the fascimile of seal affixed on the forwarding letter, and therefore, possibility of tampering with the phial was too remote, because Senior Scientific Assistant who examined the blood sample had found the seal of "Medico Legal Gujarat" both on the phial as well as on the forwarding letter Ex.10 in intact condition, and therefore, this contention with regard to seal on the forwarding letter is negatived by this court.

11. Shri Joshi has argued that there is no recital in report of the Chemical Examiner Ex.11 that sample was sent with Form B. It is specifically mentioned in letter Ex.11 that along with the letter dt. 7th December, 1982 of Medical Officer, Jamnagar, sample of phial packed and wrapped by cloth in tin box was received, and therefore, this contention is against the evidence on record.

12. He has further argued that it is not stated as to what seal was there on phial. The Chemical Examiner has stated that there was a seal of "Medico Legal Gujarat" on the phial. Along with that endorsement, it is also

mentioned that the seal of phial was as per the seal on forwarding letter Form B, and therefore, the Doctor has not contravened the provisions of Rule 4 of the Rules.

13. Shri Joshi has cited one authority of STATE OF GUJARAT VS. BAPUJI SAVAJI, reported in 1990(2) G.L.H. Page 451. It is observed that Rule 4(2), inter alia, provides that the sample blood shall reach the Testing Officer within 7 days of its collection and that it shall be accompanied by a forwarding letter in Form B which shall bear a fascimile of the seal or monogram used for sealing the phial. Shri Joshi has argued that in this case, sample of blood of accused was taken by the Doctor on 5th December, 1982 and it was sent to the Chemical Examiner under forwarding letter Ex.10 on 7th December, 1982. As stated in that Chemical Examiner report Ex.11, it was received by the Chemical Examiner on 9th December, 1982, and therefore, that blood had reached to the Testing Officer within seven days and therefore, the question does not arise for delay in sending the blood sample to the Testing Officer. Shri Joshi has tried to twist the matter by saying that analysis of blood was performed on 3rd January, 1983, and therefore, it can be said the phial was reached to Testing Officer after seven days. This argument cannot be accepted because as per the authority cited by Shri Joshi, the sample of blood should reach to the Testing Officer within seven days, and therefore, this contention based on the authority in the case of STATE OF GUJARAT, BAPUJI SAVAJI, reported in 1990(2) G.L.H. 451 cannot be accepted.

14. Lastly, Shri Joshi has argued that in this case, when Rule 4 is not complied with, presumption cannot be drawn and on this point, he has cited an authority in case of MALAHAVARAO BHAGWANDAS KHARADE vs. STATE OF GUJARAT, reported in 1971, 12 G.L.R. Page 956. This authority can only be made applicable, if this court finds that requirements of Rule 4 are not followed scrupulously. Whatever the facts and circumstances are shown by Mr. Joshi alleging that they are not complied with are not mandatory in nature. They are directory in nature, and therefore, this authority cited by Shri Joshi will not be helpful to the revision petitioner.

15. In view of the discussions made hereinabove, this court finds that both the courts below have come to a definite, consistent and concurrent findings of facts and both the courts below have rightly convicted the accused for the offence punishable under Seec.66(1)(b) of the Act. This court finds that necessary relevant provisions of Rule 4 which are in mandatory nature are complied

with. The facts and circumstances shown by Mr. Joshi are not mandatory in nature, and therefore, when Dr.Joshi has deposed as per the rules and when there is no cross-examination on the point and only some stray suggestions are put, it cannot be said that instances suggested are in breach of Rule 4.

16. Under the circumstances, this court finds that this Criminal Revision Application is devoid of merits and same is required to be dismissed and accordingly it is dismissed. Rule is discharged. Ad-interim stay granted on 15th June, 1989 by this Court stands vacated. The accused is directed to surrender himself before the learned Judicial Magistrate, First Class, Jamnagar to serve out the sentence imposed vide judgment dt. 12th December, 1983 rendered at Column No.7 of Summary Form Ex.2 in Criminal Case No. 1735 of 1983 rendered by 4th Joint Civil Judge (J.D.) & J.M.F.C., Jamnagar which is confirmed by the learned Additional Sessions Judge, Jamnagar who rendered his judgment Ex.11 on 24th February, 1989, within one month from the date of receipt of writ of this Court by trial Court.

Office is directed to send the writ of this order to the trial court forth with, for execution.

Date: 11/08/2000. (H.H.MEHTA,J.)
ccshah.